

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-71868

MILDRED GUNN,

Chapter 7

Debtor.

Judge Thomas J. Tucker

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ORDER DENYING DEBTOR'S EX-PARTE MOTION TO SET ASIDE DISMISSAL

This case is before the Court on Debtor's motion entitled "Debtor's Ex Parte Motion To Set Aside Dismissal" (Docket # 13, the "Motion"), which this Court construes as a motion for reconsideration of the Court's October 16, 2009 Order dismissing this case ("October 16 Order")(Docket # 4), or alternatively, as a motion for relief from the Court's October 16 Order.

The Court has reviewed and considered the Motion, and finds that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court notes the following. First, the allegations in the Motion do not establish any valid ground for relief from the October 16 Order dismissing this case under Fed.R.Bankr.P. 9024 and Fed.R.Civ.P. 60(b).

Second, as indicated in the Court's October 16 Order, because no voluntary petition was filed, no case was commenced. *See* 11 U.S.C. § 301(a). The Court cannot reinstate a case that was never commenced in the first place. Debtor's only remedy is to file a new case, by filing a proper voluntary petition.

Accordingly,

IT IS ORDERED that the Motion (Docket # 13), is DENIED.

Signed on November 23, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge